

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1070

Introduced by Dierks, 40

Read first time January 7, 2000

Committee: Revenue

A BILL

- 1 FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-2715.07, Revised Statutes Supplement, 1999; to adopt
- 3 the Agricultural Property Tax Credit Act; to harmonize
- 4 provisions; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known
2 and may be cited as the Agricultural Property Tax Credit Act.

3 Sec. 2. For purposes of the Agricultural Property Tax
4 Credit Act:

5 (1) Agricultural land shall have the same meaning as
6 agricultural and horticultural land in section 77-1359;

7 (2) Claimant means an owner of agricultural land
8 domiciled in this state during the entire year for which a credit
9 is claimed except:

10 (a) When two or more individuals of a household are able
11 to qualify individually as a claimant, they may determine between
12 them which one will be the claimant. If they are unable to agree,
13 the Tax Commissioner shall determine which one will be the
14 claimant;

15 (b) For partnerships and limited liability companies,
16 claimant means each partner or member;

17 (c) For an estate or trust, claimant means the personal
18 representative or trustee. Claimant does not include the estate of
19 a nonresident, a trust which receives Nebraska real property from a
20 nonresident, or a trust in which a nonresident settlor retains a
21 beneficial interest;

22 (d) For a family farm corporation, claimant means each
23 shareholder; and

24 (e) For land subject to a land contract, claimant means
25 the vendee under the contract;

26 (3) Household means an individual, his or her spouse, and
27 all minor dependents;

28 (4) Household income means all of the income of the

1 claimant and the claimant's spouse and the farm income, including
2 wages, earned on the farm to which the credit applies of all minor
3 dependents attributable to the income year while members of the
4 household;

5 (5) Income means:

6 (a) For an individual, adjusted gross income as defined
7 in the Internal Revenue Code, plus any Nebraska adjustments
8 increasing the adjusted gross income, less first-year depreciation
9 allowances under section 179 of the Internal Revenue Code, and less
10 the first twenty-five thousand dollars of depreciation expense for
11 the farm claimed by all of the individuals in a household; and

12 (b) For an estate or trust, the same as income for an
13 individual except that the net income of the estate or trust before
14 subtracting any deduction claimed for income distributable to the
15 estate's or trust's beneficiaries shall be included instead of
16 Nebraska adjusted gross income; and

17 (6) Property taxes accrued means property taxes exclusive
18 of special assessments, delinquent interest, and charges for
19 service levied on the agricultural land and improvements owned by
20 the claimant or any member of the claimant's household in any
21 calendar year. If agricultural land is owned by a subchapter S
22 corporation or by two or more persons or entities as joint tenants,
23 tenants in common, members of a limited liability company, or
24 partners or is marital property or survivorship marital property
25 and one or more such persons, entities, or owners is not a member
26 of the claimant's household, property taxes accrued means that part
27 of property taxes levied that reflects the ownership percentage of
28 the claimant and the claimant's household. For purposes of this

1 subdivision, property taxes are levied when certified.

2 Sec. 3. (1) A claimant may claim as a refundable credit
3 against Nebraska income taxes otherwise due the amount derived
4 under section 4 of this act.

5 (2) Every claimant shall supply, at the request of the
6 Tax Commissioner, in support of the claim, a copy of the property
7 tax statement relating to the agricultural land and certification
8 by the claimant that all taxes owed by the claimant on the property
9 for which the claim is made for the prior year have been paid.

10 (3) No tax credit shall be allowed unless a claim is
11 filed with the Tax Commissioner.

12 Sec. 4. The amount per calendar year of a claim for
13 income tax credit pursuant to the Agricultural Property Tax Credit
14 Act shall be the amount determined by subtracting a percentage of
15 the claimant's household income from the amount of property taxes
16 accrued in the preceding calendar year. The tax credit shall not
17 exceed four thousand dollars per claimant. The percentage of the
18 claimant's household income used to determine the credit allowable
19 to the claimant is:

20 (1) Four percent if household income does not exceed
21 \$10,000;

22 (2) Five percent if household income is between \$10,001
23 and \$15,000;

24 (3) Six and five-tenths percent if household income is
25 between \$15,001 and \$20,000;

26 (4) Nine percent if household income is between \$20,001
27 and \$25,000;

28 (5) Twelve percent if household income is between \$25,001

1 and \$30,000; and

2 (6) Eighteen percent if household income is greater than
3 \$30,000.

4 Sec. 5. (1) Any person who (a) makes any false or
5 fraudulent application for a tax credit pursuant to the
6 Agricultural Property Tax Credit Act, (b) makes any false statement
7 or false representation of a material fact in support of an
8 application, (c) assists another in the preparation of any false or
9 fraudulent application, or (d) enters into any collusion with
10 another by the execution of a fictitious deed or other instrument
11 for the purpose of obtaining unlawful tax credit under the act
12 shall be guilty of a Class II misdemeanor and shall be subject to a
13 forfeiture of the tax credit for a period of two years after the
14 date of conviction. Any person who makes an oath or affirmation to
15 any false or fraudulent application for a tax credit under the act
16 knowing the same to be false or fraudulent shall be guilty of a
17 Class I misdemeanor.

18 (2) In addition to the penalty provided in subsection (1)
19 of this section, if any person files an application for a tax
20 credit which is excessive due to misstatements by the owner filing
21 the application, the application may be disallowed in full and, if
22 the application has been granted, an amount equal to the tax credit
23 shall be due and shall upon entry of the amount thereof on the
24 books of the county treasurer be a lien on such property until paid
25 and a penalty equal to the amount of the tax credit shall be
26 assessed.

27 Sec. 6. The Tax Commissioner shall adopt and promulgate
28 rules and regulations to carry out the Agricultural Property Tax

1 Credit Act.

2 Sec. 7. Section 77-2715.07, Revised Statutes Supplement,
3 1999, is amended to read:

4 77-2715.07. (1) There shall be allowed to qualified
5 resident individuals as a nonrefundable credit against the income
6 tax imposed by the Nebraska Revenue Act of 1967:

7 (a) A credit equal to the federal credit allowed under
8 section 22 of the Internal Revenue Code; and

9 (b) A credit for taxes paid to another state as provided
10 in section 77-2730.

11 (2) There shall be allowed to qualified resident
12 individuals against the income tax imposed by the Nebraska Revenue
13 Act of 1967:

14 (a) For returns filed reporting federal adjusted gross
15 incomes of greater than twenty-nine thousand dollars, a
16 nonrefundable credit equal to twenty-five percent of the federal
17 credit allowed under section 21 of the Internal Revenue Code of
18 1986, as amended;

19 (b) For returns filed reporting federal adjusted gross
20 income of twenty-nine thousand dollars or less, a refundable credit
21 equal to a percentage of the federal credit allowable under section
22 21 of the Internal Revenue Code of 1986, as amended, whether or not
23 the federal credit was limited by the federal tax liability. The
24 percentage of the federal credit shall be one hundred percent for
25 incomes not greater than twenty-two thousand dollars, and the
26 percentage shall be reduced by ten percent for each one thousand
27 dollars, or fraction thereof, by which the reported federal
28 adjusted gross income exceeds twenty-two thousand dollars; and

1 (c) A refundable credit for individuals who qualify for
2 an income tax credit under the Beginning Farmer Tax Credit Act for
3 all taxable years beginning or deemed to begin on or after January
4 1, 2001, under the Internal Revenue Code of 1986, as amended.

5 (3) There shall be allowed to all individuals as a
6 nonrefundable credit against the income tax imposed by the Nebraska
7 Revenue Act of 1967:

8 (a) A credit for personal exemptions allowed under
9 section 77-2716.01; and

10 (b) A credit for contributions to certified community
11 betterment programs as provided in the Community Development
12 Assistance Act. Each partner, each shareholder of an electing
13 subchapter S corporation, each beneficiary of an estate or trust,
14 or each member of a limited liability company shall report his or
15 her share of the credit in the same manner and proportion as he or
16 she reports the partnership, subchapter S corporation, estate,
17 trust, or limited liability company income.

18 (4) There shall be allowed as a credit against the income
19 tax imposed by the Nebraska Revenue Act of 1967:

20 (a) A credit to all resident estates and trusts for taxes
21 paid to another state as provided in section 77-2730; and

22 (b) A credit to all estates and trusts for contributions
23 to certified community betterment programs as provided in the
24 Community Development Assistance Act.

25 (5) There shall be allowed to qualified taxpayers against
26 the income tax imposed by the Nebraska Revenue Act of 1967 a
27 refundable credit as provided in the Agricultural Property Tax
28 Credit Act.

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1 Sec. 8. Original section 77-2715.07, Revised Statutes
2 Supplement, 1999, is repealed.